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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MOLO DESIGN, LTD.,

Plaintiff,

-against-

CHANEL, INC.,

Defendant.
-----X

21-CV-1578 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on March 9, 2022, Plaintiff filed a motion to compel Defendant to collect and produce documents from its parent company, Chanel SAS, *see* Dkts. 57, 58, 66 at 1;¹

WHEREAS Plaintiff argues that the documents sought from Chanel SAS are also in the possession, custody, or control of the named Defendant because Chanel SAS “was squarely involved with the selection and implementation of the Accused Products in Chanel’s stores in the U.S.,” including sharing documents with Defendant via “SharePoint” and other network folders, Dkt. 66 at 2; *see also id.* at 3–4;

WHEREAS on March 16, 2022, Defendant objected to Plaintiff’s motion, asserting that it “will produce responsive documents in its custody and control, including Chanel, Inc.’s communications with Chanel SAS and documents received from Chanel SAS,” and noting that it was objecting only to the production of documents solely within the control and custody of Chanel SAS, Dkt. 64 at 1;

¹ Plaintiff filed its motion to compel under seal, with a redacted public version. *See* Dkts. 57–58. On March 15, 2022, the Court ordered Plaintiff to refile its motion to compel making public all of the information supporting its motion, except for two limited exceptions. *See* Dkt. 63. Plaintiff refiled its motion on March 18, 2022. *See* Dkt. 66.

WHEREAS on March 18, 2022, Plaintiff filed its reply brief, again arguing that it is entitled to documents from Chanel SAS because Defendant and Chanel SAS “communicated and coordinated extensively on the design, sourcing, procurement, shipment and installation of the Accused Products in well over a dozen of Chanel, Inc.’s stores in the United States,” Dkt. 67 at 1;

WHEREAS under Federal Rule of Civil Procedure 34, a party is only obligated to produce relevant documents within its “possession, custody, or control,” Fed. R. Civ. P. 34(a)(1)(A); and


WHEREAS documents are considered within a party’s control when the party has the “right, authority, or practical ability to obtain the documents from a non-party to the action,” *Bank of N.Y. v. Meridien BIAO Bank Tanzania Ltd.*, 171 F.R.D. 135, 146–47 (S.D.N.Y. 1997) (citations omitted); *see also SEC v. Credit Bancorp, Ltd.*, 194 F.R.D. 469, 472 (S.D.N.Y. 2000) (a party has control when it “has the ability in the ordinary course of business to obtain documents held by another corporate entity”) (citations omitted);

IT IS HEREBY ORDERED that Plaintiff’s motion to compel is DENIED, as Plaintiff has not shown that Defendant has control over Chanel SAS’s documents that reflect communications with third parties. It has only shown, and Defendant concedes, that Defendant has control over documents that reflect communications between Chanel SAS and Defendant. *See* Dkt. 66 at 2. Thus, to the extent that Chanel SAS’s documents are part of “SharePoint,” Microsoft Team channels, or other network folders to which Defendant has access, those documents have been or must be produced if they are responsive to Plaintiff’s requests.

The Clerk of Court is respectfully directed to close the open motions at docket entries 57, 58, and 66.

SO ORDERED.

Date: March 29, 2022
New York, New York



VALERIE CAPRONI
United States District Judge